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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/184,553	11/02/98	PECNIK	H 98092

PM82/0910  
LAW OFFICES OF KARL HORMANN  
86 SPARKS STREET  
CAMBRIDGE MA 02138-2216

EXAMINER

HO, H

ART UNIT	PAPER NUMBER
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3681

DATE MAILED:

*3*  
09/10/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/184,553**

Applicant(s)  
**Hermann Pecnik et al.**

Examiner  
**Ha Ho**

Group Art Unit  
**3681**



☒ Responsive to communication(s) filed on Nov 2, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-8 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-8 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Nov 2, 1998 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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### **DETAILED ACTION**

1. This is the first Office Action on the merits of Application No. 09/184,553 filed on 11/02/98. Claims 1-8 are currently pending.

#### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "second axle" in lines 1, 6 and 13 of claim 1, line 4 of claim 7, and line 2 of claim 8 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, there is an inconsistency between the language in the preamble and certain portion or portions in the body of the claim, thereby making the scope of the claim unclear. Require that the applicant clarify what the claim is intended to be drawn to, i.e., either the transverse-mounted drive unit alone or the combination of transverse-mounted drive unit and

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first and second axles of the vehicle, and that applicant make the language of the claim consistent with applicant's intent.

The recitation in claim 3 "the effective cones of the second and third tapered roller bearings form the same point" is unclear and indefinite. General speaks that two lines form at the same point. It is not clear as to how the two cones can form a common point, and what the effective cones of the tapered bearings are.

The recitation "a spur gear" in line 2 of claim 7 is a double inclusion of the recitation "a drive gear" in line 13 of claim 1. The double inclusion renders the claims indefinite because it directs a device can be read to include the same element twice. *Ex parte Kristensen*, 10 USPQ2d 1701 (Bd. Pat. App. & Inter. 1989).

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 4, 5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Hatano (US 4,779,699).

Hatano teaches a transverse-mounted drive unit (see Fig. 1a) comprising a housing having first and second axially spaced bearings (see Exhibit 1); a center differential (30) having a cage (30c), one output member (19b) for driving the first axle (21, 22), and a second output member

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(26) for driving the second axle (see Fig. 6); an input gear (20a) coupled to the cage to be driven by an output gear (9) of a transmission; first and second bearing sleeves (see Exhibit 1), an axial extension (see Exhibit 2) connected to the second output member (26); an output gear (43) coupled to the axial extension to mesh with a drive gear (44) connected with the second axle and respectively provided in opposite surfaces with a bearing member (see Exhibit 1) seated in the second bearing and a third bearing for receiving the second bearing sleeve; an intermediate shaft (45) connected to the drive gear (44) meshing with the output gear (43) and a bevel gear (46) adapted for meshing with a bevel gear (47) connected to a shaft (24) for driving the second axle. The output gear (43) is supported by an additional bearing (see Exhibit 1) seated in one of the housing and the cage (see Exhibit 1). The first axle comprises first (21) and second (22) axially aligned haft-shafts.

7. Claims 1-3, 5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Sasaki et al. (US 4,645,029).

Sasaki teaches a transverse-mounted drive unit (see Fig. 1) comprising a housing having first and second axially spaced bearings (see Exhibit 3); a center differential (60) having a cage (61), one output member (40) for driving the first axle (43, 43), and a second output member (see Exhibit 3) for driving the second axle; an input gear coupled to the cage to be driven by an output gear (338) of a transmission; first and second bearing sleeves (see Exhibit 3), an axial extension (see Exhibit 3) connected to the second output member; an output gear (81) coupled to the axial

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extension to mesh with a drive gear (551) connected with the second axle and respectively provided in opposite surfaces with a bearing member (see Exhibit 3) seated in the second bearing and a third bearing for receiving the second bearing sleeve. The bearings are tapered roller bearings (see Fig. 3). The two lines drawn from the effective cones of the second and third tapered roller bearings form the same point (see Exhibit 4). The first axle comprises first (43 on the left) and second (43 on the right) axially aligned haft-shafts. The output gear (81) is a bevel gear adapted to mesh with a bevel gear (511) connected to a shaft (52) for driving the second axle (see Fig. 1).

***Allowable Subject Matter***

8. Claim 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose or render obvious a motivation to provide for a transverse-mounted drive unit as defined by the limitations of claim 6, including an internal gear freely rotate in the cage, and including a second planetary gear having a sun gear connected to the second half-shaft of the first axle.

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*Cited Prior Art*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Mori'794 (two simple planetary gearsets), Inoue'949 (differential), Morin'787 (differential), Kobayashi'408 (differential), Mooers'991 (differential), Royce'683 (differential), and Ruhle'824 (differential) are cited.

*Communication*

11. Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is **(703) 305-3597**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence **not** permitted by facsimile transmission, see M.P.E.P. 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check **should not be** submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P.. 512). The following is an example of the format the certification might take:

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(Date)

Typed or printed name of person signing this certificate:

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(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P.. 502.02).

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Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

12. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Examiner Ho whose telephone number is (703) 305-0738. The examiner can normally be reached on Monday-Friday from 7:30 A.M. to 4:00 P.M. Eastern Standard Time. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Mr. Charles Marmor, can be reached on (703) 308-0830. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

*Charles A Marmor 9/8/99*  
CHARLES A MARMOR  
SUPERVISORY PATENT EXAMINER  
ART UNIT 3681

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Ha Ho

September 7, 1999